

## CHAPTER 359

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 09-1351**

BY REPRESENTATIVE(S) Pommer and Ferrandino, Marostica, Court, Fischer, Green, Hullinghorst, Judd, Labuda, McFadyen, Merrifield, Pace, Ryden, Todd, Weissmann, Carroll T., Frangas, Kagan, Levy, Priola, Solano, Vigil;  
also SENATOR(S) Carroll M., Boyd, Groff, Hodge, Hudak, Morse, Sandoval, Williams.

**AN ACT**

**CONCERNING AN INCREASE IN THE AMOUNT OF TIME AN INMATE MAY HAVE DEDUCTED FROM THE INMATE'S SENTENCE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 17-22.5-405 (4), Colorado Revised Statutes, is amended, and the said 17-22.5-405 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**17-22.5-405. Earned time - earned release time.** (1.5) (a) EARNED TIME, NOT TO EXCEED TWELVE DAYS FOR EACH MONTH OF INCARCERATION OR PAROLE, MAY BE DEDUCTED FROM AN INMATE'S SENTENCE IF THE INMATE:

- (I) IS SERVING A SENTENCE FOR A CLASS 4, CLASS 5, OR CLASS 6 FELONY;
- (II) HAS INCURRED NO CODE OF PENAL DISCIPLINE VIOLATIONS WHILE INCARCERATED;
- (III) HAS BEEN PROGRAM-COMPLIANT; AND
- (IV) WAS NOT CONVICTED OF, AND HAS NOT PREVIOUSLY BEEN CONVICTED OF, A CRIME IN SECTIONS 18-7-402 TO 18-7-407, C.R.S., SECTION 18-12-102, C.R.S., OR SECTION 18-12-109, C.R.S., OR A CRIME LISTED IN SECTION 24-4.1-302 (1), C.R.S.

(b) THE EARNED TIME SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) MAY BE DEDUCTED BASED UPON A DEMONSTRATION TO THE DEPARTMENT BY THE INMATE, WHICH IS CERTIFIED BY THE INMATE'S CASE MANAGER OR COMMUNITY PAROLE OFFICER, THAT HE OR SHE HAS MADE CONSISTENT PROGRESS IN THE

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

CATEGORIES DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

(c) NOTHING IN THIS SUBSECTION (1.5) SHALL PRECLUDE AN INMATE FROM RECEIVING EARNED TIME PURSUANT TO SUBSECTION (1) OF THIS SECTION IF THE INMATE DOES NOT QUALIFY FOR EARNED TIME PURSUANT TO THIS SUBSECTION (1.5).

(4) Notwithstanding any other provision of this section, earned time may not reduce the sentence of ~~any~~ AN inmate as defined in section 17-22.5-402 (1) by a period of time ~~which~~ THAT is more than ~~twenty-five~~ THIRTY percent of the sentence. THIS SUBSECTION (4) SHALL NOT APPLY TO SUBSECTION (6) OF THIS SECTION.

(6) EARNED RELEASE TIME SHALL BE SCHEDULED BY THE PAROLE BOARD AND THE TIME COMPUTATION UNIT IN THE DEPARTMENT OF CORRECTIONS FOR INMATES CONVICTED OF CLASS 4 AND CLASS 5 FELONIES UP TO SIXTY DAYS PRIOR TO THE MANDATORY RELEASE DATE AND FOR INMATES CONVICTED OF CLASS 6 FELONIES UP TO THIRTY DAYS PRIOR TO THE MANDATORY RELEASE DATE FOR INMATES WHO MEET THE FOLLOWING CRITERIA:

(a) THE INMATE HAS NO CODE OF PENAL DISCIPLINE VIOLATIONS;

(b) THE INMATE IS PROGRAM-COMPLIANT; AND

(c) THE INMATE WAS NOT CONVICTED OF, AND HAS NOT PREVIOUSLY BEEN CONVICTED OF, A CRIME IN SECTIONS 18-7-402 TO 18-7-407, C.R.S., SECTION 18-12-102, C.R.S., OR SECTION 18-12-109, C.R.S., OR A CRIME LISTED IN SECTION 24-4.1-302 (1), C.R.S.

(7) BEGINNING IN THE FISCAL YEAR 2012-13, THE GENERAL ASSEMBLY MAY APPROPRIATE THE SAVINGS GENERATED BY SUBSECTIONS (1.5) AND (6) OF THIS SECTION TO RECIDIVISM-REDUCTION PROGRAMS.

**SECTION 2.** 17-22.5-402 (2), Colorado Revised Statutes, is amended to read:

**17-22.5-402. Discharge from custody.** (2) Notwithstanding subsection (1) of this section, the full term for which an inmate is sentenced shall be reduced by any EARNED RELEASE TIME AND earned time granted pursuant to section 17-22.5-405, except as provided in section 17-22.5-403 (3) and (3.5).

**SECTION 3. Appropriation - adjustments to the 2009 long bill.** (1) In addition to any other appropriation, there is hereby appropriated, to the department of corrections, for the fiscal year beginning July 1, 2009, the sum of eight hundred sixty-seven thousand nine hundred fifty-nine dollars (\$867,959) and 10.8 FTE, or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from the general fund.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2009, shall be adjusted as follows:

(a) The appropriation to the department of corrections is decreased by two million nine hundred ninety-seven thousand nine hundred seventy-five dollars (\$2,997,975).

Said sum shall be from the general fund.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2009